

## Message Text

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ACTION DLOS-09

INFO OCT-01 IO-13 ISO-00 ACDA-12 AGRE-00 AID-05 CEA-01

CEQ-01 CG-00 CIAE-00 COME-00 DODE-00 DOTE-00

EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00 H-01

INR-10 INT-05 JUSE-00 L-03 NSAE-00 NSF-01 OES-07

OMB-01 PA-01 PM-05 SP-02 SS-15 NSCE-00 SSO-00

ICAE-00 INRE-00 AF-10 ARA-10 EA-10 EUR-12 NEA-11

/173 W

-----115922 162028Z /70

O 161926Z MAY 78

FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 9710

C O N F I D E N T I A L SECTION 01 OF 02 GENEVA 07526

E.O. 11652: GDS

TAGS: PLOS, EMIN

SUBJECT: LOS: US/CANADIAN PROVISIONAL AGREEMENT ON  
PRODUCTION CEILING

REF: A. STATE 119888, B. GENEVA 6934, C. GENEVA 6881

1. WE APPRECIATE WASHINGTON'S PROMPT AND THOUGHTFUL  
REPLY TO REFTELS B AND C. RESPONSES TO QUESTIONS POSED  
IN PARAGRAPHS 5 AND 6 OF REFTEL A FOLLOW:

2.--5.A. IN NEGOTIATING THE PROPOSED AGREEMENT WE BUILT  
IN AS MANY "TECHNICAL" CUSHIONS AS POSSIBLE SO AS TO  
MINIMIZE THE CHANCE THAT THE FORMULA WOULD BITE. NO ONE  
CAN SAY WITH CERTAINTY WHETHER OR NOT THESE CUSHIONS  
WILL IN FACT PROVE IN THE FUTURE TO BE "ADEEUATE." WE  
BELIEVE CHANCES ARE GOOD THAT THERE WILL BE NO BITE, BUT  
ONLY TIME WILL TELL. IN RESPONSE TO YOUR SPECIFIC  
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QUESTIONS: A RUSH OF NEW ENTRANTS, AS YOU RECOGNIZE  
IN POSING YOUR QUESTION, WILL BE LIKELY TO OCCUR ONLY  
IN RESPONSE TO MARKET CONDITIONS (I.E. SHARPLY INCREASED  
DEMAND FOR NICKEL). BUT THOSE SAME MARKET CONDITIONS  
WOULD ALSO CAUSE THE FORMULA GRADUALLY TO BECOME MORE  
GENEROUS, THUS MAKING ROOM FOR MORE SEABED MINING  
PROJECTS.

THE POSSIBILITY OF A TECHNOLOGICAL BREAKTHROUGH THAT WOULD ALLOW SEABED NICKEL TO BE PRODUCED SIGNIFICANTLY MORE CHEAPLY THAN NICKEL FROM LAND-BASED SOURCES NOW IN PRODUCTION IS REMOTE, ACCORDING TO DELEGATION TECHNICAL EXPERTS.

3.--5.B. WE DO NOT ANTICIPATE AN INITIAL RUSH FOR SITES. THE NEED TO MEET FINANCIAL REQUIREMENTS IN ORDER TO APPLY FOR A SITE (I.E. TO HAVE THE 500 MILLION TO ONE BILLION DOLLARS NEEDED TO FINANCE AN OPERATION IN HAND OR UNDER FIRM COMMITMENT FROM LENDERS), PLUS DILIGENCE REQUIREMENTS AND THE UNQUESTIONED RISKINESS OF FIRST GENERATION SEABED MINING SHOULD SERVE AS EFFECTIVE CHECKS ON SPECULATIVE URGES AND MAY WELL GIVE SECOND THOUGHTS TO GOVERNMENTS CONSIDERING SUBSIDIZATION OF SEABED MINING.

4.--6.A. THE MOST IMPORTANT GAIN FROM SOLVING THE PRODUCTION CEILING PROBLEM IS TO ENLIST LAND-BASED PRODUCERS IN OUR EFFORT TO NEGOTIATE AN ACCEPTABLE SEABED MINING REGIME. THEY HAVE BEEN HIGHLY INFLUENTIAL IN THE CONFERENCE AND SHOULD BE OUR ALLIES, RATHER THAN OUR ADVERSARIES, ON MOST REMAINING ISSUES. MOREOVER, WE BELIEVE SOLUTION OF ONE OF THE LONGEST STANDING AND MOST CONTENTIOUS ISSUES IN THE SEABEDS NEGOTIATIONS WILL

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SERVE AS A SIGNAL TO THE CONFERENCE THAT FINALLY WE ARE WITHIN REACH OF AGREEMENT ON A WIDE RANGE OF ISSUES, AND THAT THE TIME HAS ARRIVED TO STOP POLITICAL POSTURING AND TO ATTEMPT TO SETTLE THE REMAINING OUTSTANDING ISSUES ON A REASONABLE BASIS. WE CANNOT KNOW NOW WHETHER RESOLUTION OF THE PRODUCTION CONTROL ISSUE WILL "BUY US AN OTHERWISE ACCEPTABLE SEABED REGIME WITHIN CURRENT INSTRUCTIONS," BUT THAT GOAL IS CLEARLY MORE DIFFICULT TO OBTAIN WITHOUT EARLY RESOLUTION OF THE PRODUCTION CEILING QUESTION. CHANCES FOR FINDING OUT WHETHER IT IS IN FACT ATTAINABLE WILL BE INCREASED BY INTRODUCTION OF THE US/CANADIAN PROPOSALS INTO THE TEXTS THAT WILL FORM THE BASIS OF FURTHER NEGOTIATIONS.

5.--6.B. THE PROPOSAL DOES NOT CALL FOR A "SHARPLY REDUCED LIMIT" WHEN IT IS COMPARED WITH ANY PRODUCTION CONTROL LYING WITHIN THE RANGE OF POSSIBLE AGREEMENT. ANY PRODUCTION CONTROL ACCEPTABLE TO LAND-BASED PRODUCERS WOULD, AS YOU POINT OUT, FEED FRENCH DESIRES FOR UN-ACCEPTABLE QUOTA/ANTI-MONOPOLY PROVISIONS. THESE WILL HAVE TO BE REBUFFED AND EFFORTS MADE TO CALM FRENCH FEARS OF A SEABED MINING SYSTEM DOMINATED BY THE U.S. IN FACT,

THE FUTURE SEABED MINING SYSTEM WILL NOT BE DOMINATED  
BY THE U.S. OR BY ANY OTHER SINGLE COUNTRY, AS THE  
CONSORTIA INVOLVED WILL CONTINUE TO SEEK TO MINIMIZE  
POLITICAL AND ECONOMIC RISK THROUGH DIVERSIFICATION OF  
EQUITY PARTICIPATION. WE SHALL CONTINUE TO TRY TO  
CONVINCE THE FRENCH THAT THIS IS INDEED THE CASE.

6.--6.C. IN OUR JUDGMENT THE 25 YEAR SPAN OF THE INTERIM  
PERIOD IS THE SINGLE MOST IMPORTANT ELEMENT OF THE PACKAGE.  
WITH RESPECT TO REVIEW CONFERENCE PROVISIONS, WE HAVE NO  
INTENTION OF PERMITTING TERMINATION WITHOUT OUR CONSENT  
OF OUR ACCESS TO SEABED RESOURCES BY MEANS OF A REVIEW  
CLAUSE OR IN ANY OTHER WAY AND WE SHALL MAKE THAT  
ABUNDANTLY CLEAR. FYI: AS A RESULT OF THE PROSPECTIVE  
MODE OF APPLICATION SPELLED OUT ON THE FORMULA, THERE  
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WOULD BE NO DE FACTO LIMIT ON THE NUMBER OF PROJECTS THAT  
COULD BE AUTHORIZED AFTER ABOUT THE TWENTIETH YEAR OF  
THE INTERIM PERIOD (I.E. THE FIFTEENTH YEAR OF COMMERCIAL

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C O N F I D E N T I A L SECTION 02 OF 02 GENEVA 07526

PRODUCTION). ALSO, THE NJENGA REVIEW CLAUSE PROVISION CALLS FOR THE REVIEW CONFERENCE TO BEGIN TWENTY YEARS AFTER THE START OF COMMERCIAL PRODUCTION, THUS PLACING THE EARLIEST POSSIBLE DECISION TO IMPOSE A MORATORIUM IN THE TWENTY-FIFTH YEAR OF COMMERCIAL PRODUCTION. THE NET RESULT OF THE INTERACTION BETWEEN THE PRODUCTION CONTROL FORMULA AND THE REVIEW CLAUSE, AS CURRENTLY DRAFTED, IS TO CREATE AN "OPEN SEASON" ON CONTRACTS LASTING ABOUT TEN YEARS. END FYI.

7.--6.D. THE FACT THAT OTHER ISSUES REMAIN TO BE NEGOTIATED SHOULD NOT LEAD US TO THE CONCLUSION THAT NONE CAN BE SETTLED. WE HAVE INFORMED THE CANADIANS AND OTHER INTERESTED DELEGATIONS THAT THE FORMULA IS PART OF A PACKAGE DEAL THAT CANNOT BE UNWRAPPED, AND THAT ANY ATTEMPT IN THIS OR LATER SESSIONS TO MODIFY IT IN SUCH A WAY AS TO MAKE IT LESS GENEROUS WOULD, IF SUCCESSFUL, LEAD TO AN IMMEDIATE RETURN BY CONFIDENTIAL

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THE UNITED STATES TO OUR FORMER POSITION CALLING FOR NO LESS THAN 100 PERCENT OF THE GROWTH SEGMENT BEING MADE AVAILABLE TO SEABED MINING. WE HAVE INDEED REACHED THE LOWER LIMIT OF OUR FLEXIBILITY ON THIS ISSUE, AND WE ARE COMMUNICATING THAT FACT IN NO UNCERTAIN TERMS TO THE CONFERENCE. THE CANADIAN POSITION IS SIMILAR: THEY HAVE INFORMED US THAT ANY CHANGE IN THE PACKAGE RESULTING IN A MORE GENEROUS CEILING WOULD CAUSE THEM TO REVERT TO THEIR 50 PERCENT POSITION.

8. GENERAL COMMENT: U.S. AND CANADIAN DELEGATION UNDERSTANDING ON PRODUCTION LIMITATION SHOULD BE SEEN AS PART OF OUR GENERAL EFFORT TO RESOLVE AS MANY AS POSSIBLE OF THE DIFFICULT SEABEDS ISSUES IN WAYS AT LEAST ACCEPTABLE TO OUR INTERESTS. WE HAVE TO DEAL WITH THEM ONE BY ONE AND SEEK THE BEST ATTAINABLE SOLUTIONS. TO LEAVE AN ISSUE UNTIL THE END BECAUSE THE ONLY NEGOTIABLE SOLUTION FALLS SHORT OF OUR DESIRES WOULD BE TO ENSURE THAT THERE WOULD BE NO LOS TREATY. RICHARDSON

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## Message Attributes

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